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Attorneys for Plaintiff  
DAVID ZAITZEFF

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

DAVID ZAITZEFF, et al.,

Plaintiff,

VS.

PEREGRINE FINANCIAL GROUP, INC., et  
al.,

Defendants.

Case No. CV 08-2874 MMM (JWJx)

## PLAINTIFF'S OBJECTIONS TO EVIDENCE SUBMITTED IN MOTION TO DISMISS

Hearing Date: June 23, 2008 10AM  
Judge: Hon. Margaret M. Morrow

Plaintiff, David Zaitzeff submits the following objections to “evidence” submitted by Defendant Peregrine Financial Group, Inc.

## Objections to Declaration of Rebecca J. Wing

<b>MATERIAL OBJECTED TO</b>	<b>GROUND FOR OBJECTION</b>
5. From March 20, 2006 through his resignation on March 2, 2008, David Zaitzeff was an Associated Person of PFG and was registered with the NFA as an Associate Member.	The declarant does not establish an adequate factual foundation to support the statement. (See FRE 601-602). Contradicted by other statements in the same declaration. Exhibit 2 P. 17 shoes that NFA does not have an “Associate Member” category, only an

1		“Associate” (§6511.3) category and a
2		“Member” (§6511.10) category.
3		The content of the statement is irrelevant
4		and immaterial to any issue presented in this
5		motion. (FRE 401 and 402.) Declarant does
6		not say what an “Associated Person” is nor
7		why this status would be relevant.
8	6. The “Associated Person Agreement”	The declarant does not establish an adequate
9	attached as Exhibit 1 was entered into freely	factual foundation to support the statement.
10	and voluntarily and negotiated at arm’s	(See FRE 601-602).
11	length.	Conclusory, unsupported statements are not
12		sufficient to create a material fact. (Hansen
13		v. United States, 7 F.3d 137 (9th Cir. 1993)).
14	8. On May 16, 2008, PFG filed a Statement	The “Statement of Claim” referred to by the
15	of Claim against Zaitzeff in arbitration	declarant is its own best evidence, and in its
16	before the NFA seeking reimbursement for a	absence, a statement regarding its contents is
17	deficit in an account on Zaitzeff’s equity run	inadmissible. (FRE 1001).
18	and other damages and a ruling that Zaitzeff	
19	was in independent contractor and not and	
20	employee of PFG and that he was not	
21	entitled to offsets against the amount he	
22	owed PFG because of the alleged violations	
23	of federal and state law that are contained in	
24	his instant Complaint.	
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2 DATED: May 30, 2008

LAW OFFICES OF MICHAEL L. TRACY

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4 By: \_\_\_/s/ Michael Tracy\_\_\_\_\_  
5 MICHAEL TRACY, Attorney for  
6 Plaintiff DAVID ZAITZEFF  
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